

Before the
Federal Communications Commission
Washington, D.C. 20554

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| In the Matter of |) | |
| |) | |
| Revision of the Commission's Rules |) | CC Docket No. 94-102 |
| To Ensure Compatibility With |) | |
| Enhanced 911 Emergency Calling |) | |
| Systems |) | |
| |) | |
| Phase II Compliance Deadlines for |) | |
| Non-Nationwide CMRS Carriers |) | |

To: Chief, Wireless Telecommunications Bureau

REPLY TO COMMENTS OF NENA, APCO AND NASNA

Southern Illinois RSA Partnership d/b/a First Cellular of Southern Illinois ("First Cellular"), by its attorney and pursuant to Section 1.45(c) of the Commission's Rules, hereby replies to the joint "Comments of NENA, APCO and NASNA" ("Comments"), filed September 11, 2002 by the National Emergency Number Association ("NENA"), the Association of Public-Safety Communications Officials-International, Inc. ("APCO") and the National Association of State Nine One One Administrators ("NASNA") (collectively "the Public Safety Organizations"), insofar as the Comments pertain to First Cellular's "Request for Temporary Stay," filed August 13, 2002 as amended by the "Amended Request for Temporary Stay," filed September 4, 2002 (the "Stay Request"). In support hereof, the following is shown:

1. The Public Safety Organizations take no position on the merits of First Cellular's Stay Request, but instead mistakenly characterize it as "woefully tardy" and request that the matter be referred to the Enforcement Bureau so that First Cellular can be

compelled to explain the delay in filing the Stay Request (Comments, pg. 2).

2. In point of fact and as the Public Safety Organizations should know, First Cellular's Request is not tardy and, accordingly, no basis exists for a referral to the Enforcement Bureau. As First Cellular's previous filings in this docket demonstrate, First Cellular intends to implement a network-based Phase II Automatic Location Identification ("ALI") solution;¹ and did not receive a Public Safety Answering Point ("PSAP") request for E-911 Phase II ALI service until February 20, 2002.² Stated another way, First Cellular did not receive a PSAP request for E-911 Phase II service until after the November 30, 2001 deadline for small and mid-sized wireless carriers to file any requests needed (as of November 30, 2001) for relief from the E-911 Phase II rules, a deadline established by the Commission in its Public Notice, entitled "Commission Establishes Schedule For E911 Phase II Requests By Small And Mid-Sized Wireless Carriers," FCC 01-302, dated October 12, 2001. While the PSAP request received by First Cellular was rather vague and did not specifically set forth a date certain by which the requested Phase II service was to be initiated, reading the request broadly and in conjunction with

¹ See "Amended Request for Temporary Stay," filed September 4, 2002, pp. 1 and 2; "Request for Temporary Stay," filed August 13, 2002, pp. 1 and 2; and "E-911 Phase II Status Report," filed November 9, 2000 at pg. 2.

² See "Amended Request for Temporary Stay," filed September 4, 2002 at pg. 3; "Request for Temporary Stay," filed August 13, 2002 at pg. 2.

Section 20.18(f) of the Rules suggested a service initiation date of August 20, 2002. Because of its inability to meet the August 20, 2002 service initiation date and in light of other factors (as recited in its August 13 and September 4, 2002 filings), First Cellular timely-filed its Stay Request on August 13, 2002. The Stay Request was filed in reliance upon the Commission's recent Order to Stay, FCC 02-210, released July 26, 2002 ("Stay Order"), and requested a temporary stay of the Rule 20.18(f) requirements applicable to Commercial Mobile Radio Service licensees electing a network-based ALI solution.

3. Until First Cellular received the February 20, 2002 PSAP request for Phase II E-911 ALI service, First Cellular was under no obligation to request a stay because, until that event occurred, there was no regulatory requirement from which First Cellular needed relief. Under Section 20.18(f) of the Rules, actual deployment of Phase II service is not triggered until a valid PSAP request is received; and, even then, compliance is not required until the date occurring six months following the date of the request. Indeed, in establishing the November 30, 2001 deadline for small and mid-sized wireless carriers subject to the E-911 Rules to file requests for relief, the Commission emphasized that such requests had to be filed only "if necessary" and only if the carriers "need to do so."³ In a follow-up Public Notice providing guidance for the filing of the requests, the Wireless

³ See Public Notice, entitled "Commission Establishes Schedule For E911 Phase II Requests By Small And Mid-Sized Wireless Carriers," FCC 01-302, dated October 12, 2001 at pg. 1.

Telecommunications Bureau specifically stated that, for example, "[c]arriers who plan to deploy a network-based ALI solution but who have not received a PSAP request, and therefore who are not subject to any Phase II obligations, need not file requests for relief during this window,"⁴ which is clearly the case here.

4. With respect to timing, a request for relief is timely if it is filed prior to expiration of the six-month period because no Commission Rule specifies an earlier filing deadline. The fact that the Commission's Rules do not specify an earlier filing deadline is not surprising, since the end of the six-month period can be imminent before it becomes clear to the licensee that relief is needed.

5. Accordingly, since First Cellular did not receive a PSAP request for Phase II E-911 ALI service until February 20, 2002 and because it requested a temporary stay prior to August 20, 2002 (i.e., prior to the expiration of the six-month period specified in Section 20.18(f) of the Rules), its Stay Request is in no way untimely. The Stay Request is timely-filed as a matter of law, and as a consequence, no referral to the Enforcement Bureau is warranted.

6. Even assuming for purposes of argument that First Cellular's Stay Request was untimely-filed (which it most assuredly was not), no referral to the Enforcement Bureau would be warranted

⁴ See Public Notice, entitled "Wireless Telecommunications Bureau Provides Guidance On Filings By Small And Mid-Sized Carriers Seeking Relief From Wireless E911 Phase II Automatic Location Identification Rules," Mimeo DA 01-2459, dated October 19, 2001 at pg. 2 n. 7.

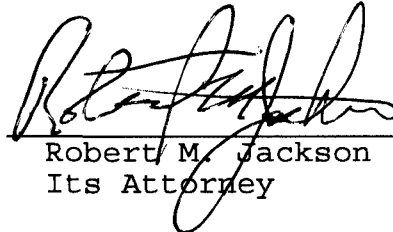
in any event. In the Stay Order, the Commission, on its own motion, chose "to grant relief to all carriers filing a waiver request, including late-filed waivers." Stay Order, Paragraph No. 10, n. 21 (emphasis added). Yet none of the late filers were referred to the Enforcement Bureau for any purpose.

WHEREFORE, First Cellular requests that the relief requested in the Comments be denied; and that its Stay Request be granted.

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Respectfully submitted,
**Southern Illinois RSA
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By: 
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CERTIFICATE OF SERVICE

I hereby certify that I am an attorney with the law offices of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, and that on September 23, 2002 I caused to be mailed by first class United States mail, postage prepaid, a copy of the foregoing "**Reply to Comments of NENA, APCO and NASNA**" to the following:

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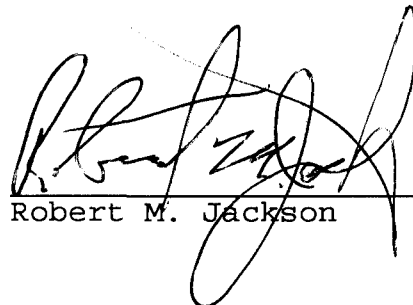
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